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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mark J. Pettay

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EXAMINER

WOZNIAK, JAMES S

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/785,048

Applicant(s)

PETTAY, MARK J.

Examiner

James S. Wozniak

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 21-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. In response to the office action from 12/8/2005, the applicant has submitted an amendment, filed 3/8/2006, arguing to traverse the art rejection based on the limitation regarding dividing a portion of a voice interaction into panels after being spoken (*Amendment, Page 6*). Applicant's arguments have been fully considered, however the previous rejection is maintained due to the reasons listed below in the response to arguments.

### *Response to Arguments*

2. Applicant's arguments have been fully considered but they are not persuasive for the following reasons:

With respect to **Claims 1 and 18**, the applicant argues that Rtischev et al (*U.S. Patent: 5,634,086*) fails to teach evaluating the compliance of a live agent reading a script while conducting a voice interaction with a live customer (*Amendment, Page 6*). In response, the examiner notes that Rtischev is not relied upon for teaching such a feature and further points out that Walker et al (*U.S. Patent: 6,567,787*) teaches such a method and system for evaluating script compliance of a live agent while conducting a voice interaction with a live customer (*Col. 1, Lines 27-28; Col. 7, Lines 9-60; and Prior office action, Pages 2-3*). Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by

attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant further argues that Rtischev fails to teach dividing a voice interaction into panels (*Amendment, Page 6*). In response, the examiner points out that Rtischev teaches a means for dividing a speech input corresponding to a script reading into word, phrase, or sentence portions or panels of a script dialog (*Col. 5, Lines 47-67; Col. 7, Line 50- Col.8, Line 14; and Prior office action, Page 3*). Although the panels utilized by the application, which contain discrete portions of a telemarketing call script and are divided according to *panel timestamps* (*Pages 18 and 22 of the specification*), may differ from the script portions disclosed by Rtischev, such specific panels have not been claimed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e., the specific telemarketing call script panels corresponding to a single offer of a good or service, Amendment, Page 6*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Thus, since Rtischev teaches dividing a spoken script into portions or panels, as is required by the presently claimed invention, and Walker discloses a method and system for evaluating script compliance of a live agent while conducting a voice interaction with a live customer, claims 1 and 18 remain rejected.

The dependent claims further limit rejected independent claims, and thus, also remain rejected.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-5, 8-18, and 21-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (*U.S. Patent: 6,567,787*) in view of Rtischev et al (*U.S. Patent: 5,634,086*).

With respect to **Claim 1**, Walker discloses:

A script compliance method for evaluating compliance of a live agent (*cashier interaction with a customer; Col. 1, Lines 27-28*) with a script (*text of the prompt or verbal message*) from which the live agent reads when conducting a voice interaction (*cashier or operator*) with a live customer (*customer; Col. 7, lines 9-26 with lines 46-60*), the method comprising at least the following:

Conducting the voice interaction between the live agent (*cashier or operator*) and a live customer (*customer*) in accordance with a script (*text prompt; Col. 7, lines 9-26 with 46-60*); and

Evaluating data representing a portion of the voice interaction spoken by the live agent (*determine whether a signal satisfies criterion; Col. 7, lines 46-60*) with an automatic speech recognition component (POS) adapted to analyze the portion of the voice interaction (*Col. 7,*

*Lines 61-65*) and to determine a score (*percentage of the times spoken properly*) representing a degree with which the live agent complied with the script during the portion of the voice interaction (*Col. 6, lines 24-30 with Col. 7, lines 46-55*).

Although Walker teaches a method for evaluating script compliance that is similar to that of the claimed invention, Walker does not specifically suggest dividing a portion of a voice interaction into panels after being spoken, wherein the panels correspond to respective sections of a script, however Rtischev discloses a means for dividing a received speech input corresponding to a script reading into word, phrase, sentence and phone units (panels) (*Col. 5, Lines 47-67; and Col. 7, Line 50- Col. 8, Line 14*).

Walker and Rtischev are analogous art because they are from a similar field of endeavor in recognizing speech corresponding to a script reading. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker with the speech input dividing means taught by Rtischev in order to implement a user feedback system that can render higher-level decisions regarding the tracking of a user reading (*Rtischev, Col. 2, Lines 56-60; and Col. 8, Lines 1-14*).

With respect to **Claim 2**, Walker discloses the method wherein the live agent is a telemarketing agent (*Col. 5, lines 40-45*).

With respect to **Claim 3**, Walker discloses the method wherein the script includes an offer of services (*figure 6 and Col. 11, lines 30-44*).

With respect to **Claim 4**, Walker discloses the method wherein said voice interaction is carried on a communications network (*Col. 3, Lines 40-56*).

With respect to **Claim 5**, Walker discloses the method wherein said communications network is a publicly switched telephone network (*telephone line, Col. 3, line 52*).

With respect to **Claim 8**, Walker discloses the method the voice interaction is a telephone call (*Col. 5, lines 40-45*).

With respect to **Claim 9**, Walker discloses the method wherein said live customer client initiates said telephone call (*Col. 5, lines 40-45 with Col. 12, lines 63-65*).

With respect to **Claim 10**, Rtischev further recites:

Converting data representing the voice interaction into a digital signal comprising a spectral representation of the voice interaction (*Col. 1, Lines 44-54; Col. 4, Lines 51-58; and Col. 5, Lines 4-27*);

Comparing the digital signal to a reference standard comprising a known vocabulary (*Col. 5, Lines 4-27*); and

Matching the digital signal to words and phrases contained in the reference standard (*Col. 5, Line 4- Col. 6, Line 5*).

With respect **Claim 11**, Walker discloses the method further comprising the step of: performing an action based (*bonus earned*) upon a determination obtained from said evaluating step (*Col. 6, lines 24-39*).

With respect to **Claim 12**, Walker discloses the method but wherein performing an action comprises transmitting a signal (*audio signal transmitted*) to said live agent corresponding to said determination (*Col. 9, line 59 – Col. 10, line 5*).

With respect to **Claim 13**, Walker discloses:

Performing an action comprises transmitting a signal to a reviewing authority corresponding to said determination (*billing system in communication with an operator database, Col. 6, Lines 24-39*).

With respect to **Claim 14**, Walker recites:

Performing an action comprises causing an entry to be made in a script compliance incentive system (*operator database, Col. 5, Line 46- Col. 6, Line 39*).

With respect to **Claim 15**, Walker discloses the method comprising: reviewing the determination of the score (*bonus based on percentage, Col. 6, lines 24-28*).

With respect to **Claim 16**, Walker discloses the method wherein the score (*percentage; Col. 6, lines 24-28*) is assigned by the automatic speech recognition component (*SCRAPI; Col. 8, lines 6-11*).

With respect to **Claim 17**, Rtischev additionally recites:

Assigning a respective score to each panel (*good word count and time score for determining a text reading quality, Col. 9, Line 11- Col. 10, Line 18*).

With respect to **Claim 18**, Walker discloses:

A system for evaluating compliance of a live agent (*operator/cashier*) with a script (*text prompts*) from which the live agent reads when conducting a voice interaction with a live customer (*read aloud to customer, Col. 7, lines 46-60*) via a communication network adapted to support the voice interaction (*Col. 3, lines 40-56*) the system comprising at least the following:

A script compliance module including at least an automatic speech recognition component (*SCRAPI; column 8, lines 6-11*) adapted to analyze data representing a portion of the voice interaction (*verbal message*) spoken by the live agent (*cashier or operator*), and to



determine a score (*percentage*) representing a degree (*spoken properly*) with which the live agent complied with the script during that portion of the voice interaction (*Col. 6, lines 24-28*); and

Means for causing one or more actions (*bonus earned*) to be taken based upon the determination by the automatic speech recognition component (*Col. 6, Lines 24-39; and Col. 8, lines 6-11*).

Although Walker teaches a system for evaluating script compliance that is similar to that of the claimed invention, Walker does not specifically suggest dividing a portion of a voice interaction into panels after being spoken, wherein the panels correspond to respective sections of a script, however Rtischev discloses a means for dividing a received speech input corresponding to a script reading into word, phrase, sentence and phone units (panels) (*Col. 5, Lines 47-67; and Col. 7, Line 50- Col. 8, Line 14*).

Walker and Rtischev are analogous art because they are from a similar field of endeavor in recognizing speech corresponding to a script reading. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker with the speech input dividing means taught by Rtischev in order to implement a user feedback system that can render higher-level decisions regarding the tracking of a user reading (*Rtischev, Col. 2, Lines 56-60; and Col. 8, Lines 1-14*).

With respect to **Claim 21**, Walker discloses the system comprising a call center including a plurality of agent workstations (*POS terminals, figure 1, elements 14, 16, and 18 and one or more computers, Col. 3, lines 53-56*).

With respect to **Claim 22**, Walker discloses the system wherein said agent workstation includes a telephone (telephone) and a computer terminal (*POS; Col. 5, lines 41-45*).

With respect to **claim 23**, Walker discloses the method wherein the agent is a telemarketing agent (*Col. 5, lines 40-45*).

With respect to **Claim 24**, Walker discloses the system wherein said agent is a customer service agent (*Col. 1, lines 34-36; and Col. 3, lines 1-11*).

With respect to **Claim 25**, Walker discloses the system wherein said means for causing one or more actions comprises means for transmitting a signal to alive agent corresponding to said determination (*Col. 2, lines 1-17*).

With respect to **Claim 26**, Walker discloses:

Performing an action comprises transmitting a signal to a reviewing authority corresponding to said determination (*billing system in communication with an operator database, Col. 6, Lines 24-39*).

With respect to **Claim 27**, Walker discloses:

The means for causing one or more actions comprises means for causing an entry to be made in a script compliance incentive system (*operator database, Col. 5, Line 46- Col. 6, Line 39*).

5. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (*U.S. Patent: 6,567,787*) in view of Rtischev et al (*U.S. Patent: 5,634,086*), and further in view of Surace et al (*U.S. Patent: 6,144,938*).

With respect to **Claim 6**, Walker in view of Rtischev disclose a script compliance method, but lack the method wherein said communications network is the internet.

Surace discloses an Internet-based communication network (*Col. 8, lines 51-58*), to provide access to email, voicemail, fax etc.

Walker, Rtischev, and Surace are analogous art because they are from a similar field of endeavor in speech recognition enabled services. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker in view of Rtischev with the Internet-based communication network taught by Surace in order to transmit requests for services that can be served by remote computers, for a flexible network (*Surace, Col. 8, lines 55-58*).

6. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (*U.S. Patent: 6,567,787*) in view of Rtischev et al (*U.S. Patent: 5,634,086*), and further in view of Kennedy et al (*U.S. Patent: 6,167,255*).

With respect to **Claim 7**, Walker in view of Rtischev teach the script compliance method performed on a communication network, as applied to Claim 4. Walker in view of Rtischev do not specifically suggest that the network has a wireless component, however Kennedy discloses such a wireless component (*Col. 3, Line 59- Col. 4, Line 5; and Col. 16, Lines 46-68*).

Walker, Rtischev, and Kennedy are analogous art because they are from a similar field of endeavor in speech recognition enabled services. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker in view of Rtischev with the wireless network components taught by Kennedy in order to enable customer service access for a vehicle operator (*Kennedy, Col. 1, Lines 35-43*).

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached at (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak  
4/10/2006



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